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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,579	02/12/2004	George Jordan	IORDAN01	6001
28160	7590	09/06/2006	EXAMINER	
HOWARD J. WALTER JR. 66 BACON DR SHELBURNE, VT 05482-7495			FELTON, MICHAEL J	
			ART UNIT	PAPER NUMBER
			1731	
DATE MAILED: 09/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/777,579

Applicant(s)

IORDAN, GEORGE

Examiner

Michael J. Felton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

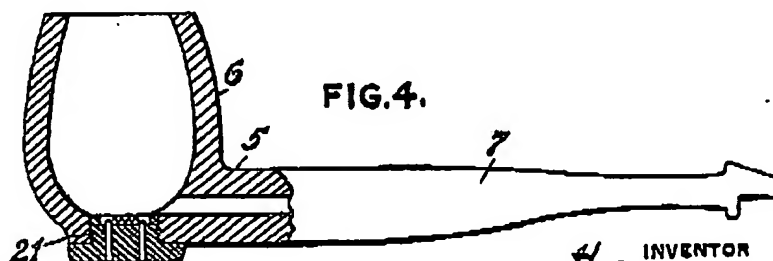
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

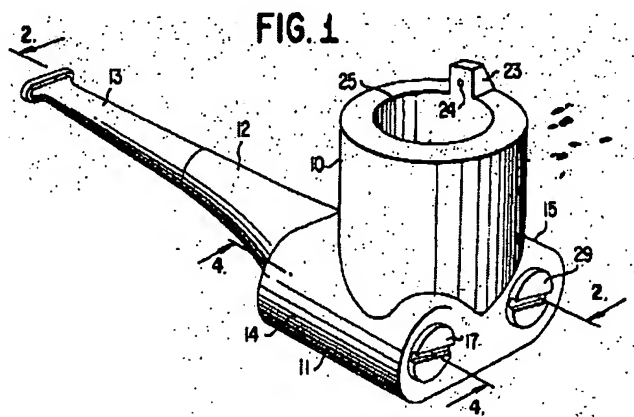
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,157,771 to Fulton in view of 3,698,400 to Tucker.

Regarding applicant claim 1, Fulton discloses a smoking device comprising a combustion chamber bowl (figure 4, element 6) for containing combustible materials to be burned and a mouthpiece pipe (5) communicating with the combustion chamber. Although Fulton discloses an ignition means below the bowl (element 21 or column 1, line 51-55) he does not disclose a piezoelectric ignition device.



Tucker discloses a piezoelectric ignition device as part of a smoking device (column 4, lines 9-15). Although Tucker employs the same type of device to start ignition as the instant application, Tucker's piezoelectric ignition system is located at the top of combustion chamber (figure 1, element 24).



Fulton and Tucker are analogous art because they are both pipes for smoking tobacco or other organic matter. At the time of invention it would have been obvious to a person of ordinary skill in the art to combine the ignition means from below the bowl in Fulton with the piezoelectric method of ignition in Tucker. The motivation for moving Tucker's piezoelectric ignition device to below the bowl is disclosed in Fulton. Fulton suggests (column 1, lines 9-26) that igniting tobacco from the bottom prevents fouling of the pipe as the combustion by products do not travel through unconsumed tobacco. Therefore, it would have been obvious to combine Fulton with Tucker to obtain the invention as specified in claim 1.

Regarding applicant claim 5, Tucker discloses a piezoelectric ignition device that includes a fuel tank for gaseous fuel (column 3, lines 8-18). Located behind element 29 in figure 1 above.

Regarding applicant claim 7, Tucker discloses a removable cover for the fuel tank (column 3, line 11-15, and element 29 in figure 1).

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,157,771 to Fulton in view of 3,698,400 to Tucker as applied to claim 1 above, and further in view of US 3863647 to Unger. Fulton and Tucker do not disclose combustion chamber bowls or mouthpieces formed of metal. Unger discloses that a smoking device with a combustion chamber bowl and mouthpiece pipe made of metal (column 1, lines 41-55). Unger further discloses particular aluminum alloys for use in making the bowl and mouthpiece pipe (column 3, lines 41-43). The motivation for making the pipe components of Fulton and Tucker out of metal is disclosed in Unger. Unger suggests (column 1, lines 10-39) that traditional wood bowls and pipes tend to accumulate tars along their surface and in their porous internal structures making them difficult to clean. Unger also suggests that making a pipe of metal is cost efficient and produces a lightweight smoking device, which is particularly true of aluminum. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Fulton, Tucker and Unger to obtain the invention as specified in claim 2 and 3.

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,157,771 to Fulton in view of 3,698,400 to Tucker as applied to claim 1 above and further in view of US Published Application 20020069886 to Couch. Fulton and Tucker do not disclose a smoking device with a combustion chamber bowl and mouthpiece pipe formed from metal or stainless steel. Couch discloses a smoking device with a bowl and a mouthpiece pipe constructed of stainless steel (paragraph 007). The motivation for making the smoking device components from stainless steel is disclosed in Couch. Couch suggests that stainless steel enables the smoking device to be easy to clean, dishwasher safe, and able to be sterilized (paragraph 010) as well as sturdy and virtually unbreakable (paragraph 011). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine Fulton, Tucker, and Couch to obtain the invention as specified in claim 2 and 4.

Claim 6 is as being unpatentable over US 1,157,771 to Fulton in view of 3,698,400 to Tucker as applied to claim 1 above, and further in view of US 3,079,927 to Fassbender. Fulton and Tucker do not disclose a removable bowl and mouthpiece pipe. Fassbender discloses a smoking device

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that can be disassembled so that the bowl and mouthpiece pipe are removable (column, lines 10-14). The motivation to make a smoking device in which the bowl and mouthpiece pipe are removable is disclosed in Fassbender. Fassbender indicates that detachably connecting pipe components is desired so that they can be rapidly disassembled for any reason (column, lines 10-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Fulton, Tucker, and Fassbender to obtain the invention as specified in claim 4.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Felton whose telephone number is 571-272-4805. The examiner can normally be reached on Monday to Friday, 7:30 AM to 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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